

# CORRECTIONS IMPACT STATEMENT

SESSION: 21RS BILL # HB 594 Introduced BR # 1610 DOC ID #: xxxx

BILL SPONSOR(S): Rep. A. Gentry AMENDMENT SPONSOR(S): . .

TITLE: AN ACT relating to the expansion of gaming and making an appropriation therefor.

**SUMMARY OF LEGISLATION:** Create a new section of KRS Chapter 154A to state the findings of the General Assembly; amend KRS 154A.010 to define, "authorizing location," "casino," "county," "county legislative body," "department," "full casino gaming," "gaming licensee," "gross gaming revenue," "handle," "licensee," "limited casino gaming," and "principal"; amend KRS 154A.030 to expand the Lottery Corporation board membership and duties; amend KRS 154A.040 to include casino licensees; amend KRS 154A.063 to remove prohibition against casino gaming; create new sections of KRS Chapter 154A to require a local option election in any precinct wanting to host a casino; describe the duties of the county clerk and sheriff in a casino gaming local option election; state requirements for local option elections held on a day other than a regular election day; require the corporation to advertise an invitation to bid for casinos; require the corporation to evaluate all proposals for full casinos; establish initial licensing fees for full casinos at \$50 million with an initial licensing period of ten years and annual renewal thereafter at \$6 million per year; permit limited casino gaming at horse racing tracks licensed under KRS Chapter 230; establish requirements for limited casinos; establish requirements for any track holding a limited casino license; establish requirements for principals of any corporation granted a casino license; create license application requirements for casino, manufacturer's, or supplier's licenses; prohibit anyone not licensed from selling, leasing, or otherwise furnishing gaming supplies; prohibit anyone under the age of 21 from participating in casino gaming; require the Lottery Corporation to determine occupations related to casino gaming that require licensure and establish criteria for occupational licensing; permit the corporation to initiate disciplinary action against applicants and license holders; establish an appeal process; create new sections of KRS Chapter 138 to establish wagering and admissions taxes to be remitted by gaming licensees and full and limited casinos; create new sections of KRS Chapter 154A to establish the casino gaming revenue distribution trust fund and limit that money to the benefit of the state retirement systems for the first ten years; establish the regional tourism and infrastructure development fund and provide criteria for projects seeking money from the fund; waive 15 U.S.C. secs. 1172, 1173, and 1174 for devices authorized by this Act; require the corporation to promulgate administrative regulations to define and limit games and devices permitted for gaming in casinos; provide guidelines for exclusion or ejection of certain persons; define "cheat" and provide penalties for those who cheat at casino games; establish KRS Chapter 239 and create new sections to define "adjusted gross revenue," "beginner," "cabinet," "confidential information," "entry fee," "fantasy contest," "fantasy contest operator," "fantasy contest participant," "highly experienced player," "immediate family," "location percentage," "net poker revenue," "online poker," "person," "principal stockholder," "rake," "registered fantasy contest operator," "script," "secretary," and "wager"; establish requirements for registration as a fantasy contest operator; require the cabinet to promulgate administrative regulations for the operation of fantasy contests; establish the wagering administration fund and direct the uses of that fund; establish the Kentucky problem gambling assistance account and direct the uses of that account; require an annual audit of fantasy contest registrants; establish requirements for fantasy contest procedures; require any person offering online poker in the Commonwealth to have a license from the cabinet and require the cabinet to promulgate administrative regulations prescribing requirements for licensure including geolocation software, age verification, and security and accounting standards; establish an online poker account in the State Treasury; amend KRS 230.210 to define "professional sports venue" and "sports wagering"; create new sections of KRS Chapter 230 to require the racing commission to institute a system of sports wagering at tracks and other specified locations; limit the types of events upon which wagers may be placed; amend KRS 230.215 to declare the intent to allow citizens to enjoy sports wagering and allow the racing commission to promulgate administrative regulations prescribing conditions under which sports wagering is to be conducted; amend KRS 230.225, 230.240, and 230.260 to include sports wagering; create a new section of KRS Chapter 230 to establish sports wagering licensure requirements; amend KRS 230.320 to conform; amend KRS 230.361 to include sports wagering; amend KRS 230.3615 to conform; create a new section of KRS Chapter 138 to define "adjusted gross income" and impose a tax on sports wagering; amend KRS 230.362, 230.363, 230.364, 230.365, 230.366, 230.369, 230.371, 230.372, 230.373, 230.374, and 230.750 to conform; create a new section of KRS Chapter 230 to prohibit participants from wagering on events in which they participate and to prohibit tampering with the outcome of a sporting event; amend KRS 230.990 to provide penalties for participants who wager on sporting events or tamper with the outcome of a sporting event, sports wagering, and online poker; amend KRS 243.500 to exempt limited or full casino gaming, sports wagering, fantasy contests and online poker; amend KRS 525.090 to exempt persons engaged in casino gaming and sports wagering; amend KRS 528.010 to exempt casino gambling activity, fantasy contests, sports wagering, and online poker and the devices used in the conduct of those forms of wagering; amend KRS 528.020 to conform; amend KRS 528.070 and 528.080 to exempt activity licensed under KRS Chapter 154A, fantasy contests, sports wagering, and online poker; amend KRS 528.100 to exempt limited or full casino gaming licensed under KRS Chapter 154A, fantasy contests, or sports wagering; amend KRS 138.510 to increase the excise tax on live horse racing to 2.5% by July 1, 2023, impose a surtax on historical horse racing and dedicate the proceeds of the surtax to stated purposes; amend KRS 138.513 to increase the excise tax on advance deposit wagering and to add a surtax; APPROPRIATION.

AMENDMENT: .

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This  bill  amendment  committee substitute is expected to:

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|---|--|
| <input checked="" type="checkbox"/> Have the following Corrections impact | <input type="checkbox"/> Have no Corrections impact              |
| <input type="checkbox"/> Creates new crime(s)                             | <input type="checkbox"/> Repeals existing crime(s)               |
| <input type="checkbox"/> Increases penalty for existing crime(s)          | <input type="checkbox"/> Decreases penalty for existing crime(s) |
| <input type="checkbox"/> Increases incarceration                          | <input type="checkbox"/> Decreases incarceration                 |
| <input type="checkbox"/> Reduces inmate/offender services                 | <input type="checkbox"/> Increases inmate/offender services      |
| <input type="checkbox"/> Increases staff time or positions                | <input type="checkbox"/> Reduces staff time or positions         |

Changes elements of offense for existing crime(s)

Otherwise impacts incarceration (Explain) .

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**STATE IMPACT:** Class A, B, & C felonies are based on an average daily prison rate of \$80.24. Community Custody Class C and most Class D felons are housed in one of seventy-seven (77) full service or regional jails for up to five (5) years. Department of Corrections' cost to incarcerate a felony inmate in a jail is \$37.35 per day, which includes \$31.34 per diem, medical costs, & central office administrative costs (substance abuse treatment not included).\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

The legislation establishes expanded gaming in Kentucky, subject to constitutional amendment. The legislation provides authorization and licensure for full and limited casino gaming, fantasy sports contests, and sports wagering. Licensing stipulations prohibit those with specified criminal convictions. Civil penalties are also included.

Section 34 of the proposed legislation establishes a Class D felony for knowingly or intentionally:

- ◇ Use or possess a device with the intent for projecting the outcome of a game, keeping track of playing cards, analyzing the probability related to gambling, or analyzing strategy for playing or betting not permitted;
- ◇ Cheat at a gambling game;
- ◇ Manufacture, sell, or distribute cards, chips, dice, etc.;
- ◇ Alter or misrepresent the outcome of a game on which wagers have been made;
- ◇ Place a bet on the outcome after acquiring knowledge that is not available to all players and concerns the outcome;
- ◇ Aids a person in acquiring described knowledge for the purpose of placing a bet;
- ◇ Claim, collect, take (or attempt) money or anything of value from a game by cheating;
- ◇ Use or possess counterfeit chips or machine tokens; or
- ◇ Possess a key or device for opening, entering, or affecting the operation of a game or mechanical device; removing coins, tokens, chips, or other contents of a gambling game; or
- ◇ Possess materials used to manufacture a slug or device intended to cheat.

A Class A misdemeanor is established for knowingly or intentionally:

- ◇ Make a false statement on an application related to a casino license,
- ◇ Permit a person under the age of twenty-one (21) to wager in a casino, or
- ◇ Being under the age of twenty-one (21), entering or attempting to enter a casino.

Section 68, KRS 230.990 creates a Class A misdemeanor for wagering on a sporting event and a Class C felony offense for tampering with the outcome of a sporting event.

- ◇ Tampering with the outcome of a sporting event occurs when a person interacts with a player, coach, referee, or other participant with the intent to persuade the individual to alter the outcome or actions within the sporting event.
- ◇ The Class C felony is subject to possible incarceration in a Kentucky state prison at an average cost of \$80.24 per day or at a local detention center at a cost to the state of \$37.35, depending on eligibility for community custody.
- ◇ The misdemeanor prohibits wagering on a sporting event in which he or she is prohibited from doing so.

Section 70 specifies that the criminal violation of Loitering under KRS 525.090 does not apply to casino gaming under KRS 154A, sports wagering under KRS 230, or fantasy contests or online poker under KRS 239.

Sections 72-74 reference gambling offenses under KRS 528:

- ◇ The Class D felony KRS 528.020 Promoting Gambling are modified to specify activity not authorized under KRS 230 or KRS 239.
- ◇ Additionally, the misdemeanor criminal offenses of KRS 528.070 Permitting Gambling and KRS 528.080 Possession of a Gambling Device specify activity not licensed under KRS Chapter KRS 154A, KRS 230, or KRS 239.

The additional offenses under this legislation are not likely to have a significant impact on incarceration costs:

- ◇ AOC records reflect one (1) conviction in FY2020 and sixty-six (66) convictions from FY2017-FY2019 surrounding Permitting Gambling, Possession of a Gambling Device, Possession of Gambling Records, and Promoting Gambling 1<sup>st</sup> and 2<sup>nd</sup> Degree. AOC records do not reflect any offenders convicted in FY2017-FY2020 under related KRS Chapter 518 Sports Bribery, Receiving Sports Bribe, or Tampering with or rigging Sports Contest.
- ◇ The Department of Corrections currently has zero (0) offenders incarcerated for gambling related offenses, but there are nine (9) offenders on supervision for Gambling offenses under KRS 528.

Overall, due to the limited number of offenses occurring related to gambling, the legislation would have a minimal to moderate impact.

**Cost to Incarcerate**

A Class C Felony sentence is 5 to 10 years.	10 Class C Felons cost KY \$1,464,387.29 to \$2,928,774.58
1 Class C Felon costs KY \$146,438.73 to \$292,877.46	100 Class C Felons cost KY \$14,643,872.89 to \$29,287,745.77
A Class D Felony sentence is 1 to 5 years.	10 Class D Felons cost KY \$136,345.44 to \$681,727.22
1 Class D Felon costs KY \$13,634.54 to \$68,172.72	100 Class D Felons cost KY \$1,363,454.45 to \$6,817,272.25

**LOCAL IMPACT:** Local governments are responsible for the cost of incarcerating individuals charged with Class A or B misdemeanors and felony defendants until disposition of the case. The estimated impact will be based on the \$37.35 cost to incarcerate while \$31.34 is the per diem and medical that DOC pays jails to house felony offenders. Since the cost to incarcerate is an estimated average cost of housing an inmate, this may not be the actual housing cost for the jail.\*

**Projected Impact:**  NONE  MINIMAL to MODERATE (< \$1 million)  SIGNIFICANT (> \$1 million)

Class D and Community Custody Class C offenders as established under this legislation would serve their sentence in a county detention facility at a daily cost to the Commonwealth of \$37.35, with daily reimbursement \$31.34 received by the jail.

The legislation establishes a Class A misdemeanor offense. Misdemeanors are subject to the jurisdiction and cost of the county.

The anticipated number of misdemeanor or felony offenders subject to offenses established under this legislation would not be expected to be substantial. Overall, the proposed legislation would likely have a minimal to moderate impact on local incarceration.

**Cost to Incarcerate**

A Class A misdemeanor is 90 days to 1 year in jail.	10 Class A misdemeanants: \$33,619.42 to \$136,345.44
1 Class A misdemeanant: \$3,361.94 to \$13,634.54	100 Class A misdemeanants: \$336,194.25 to \$1,363,454.45
A Class B misdemeanor is up to 90 days in jail.	10 Class B misdemeanants: up to \$33,619.42
1 Class B misdemeanant: up to \$3,361.94	100 Class B misdemeanants: up to \$336,194.25

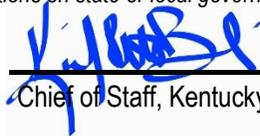
**Projected Corrections Impact from Amendments:**

*\*All projections are based on the daily rate x 365 days x number of years. The cost to incarcerate as calculated by the Department is shown here as rounded to the hundredths. Offenders may have multiple offenses or be incarcerated on other charges unless otherwise noted. Unless otherwise noted, numbers will include inchoate offenses at the underlying offense level.*

**The following offices contributed to this Corrections Impact Statement:**

Dept. of Corrections  Dept. of Kentucky State Police  Administrative Office of the Courts  Parole Board  Other

NOTE: Consideration should be given to the cumulative impact of all bills that increase the felon population, lengthens the term or incarceration, or impose new obligations on state or local governments.

**APPROVED BY:**  **3/15/2021**  
 Chief of Staff, Kentucky Department of Corrections Date